UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
HUYNH, SON P

ART UNIT	PAPER NUMBER
2424	

NOTIFICATION DATE	DELIVERY MODE
12/02/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.
10/527,822</td><td>Applicant(s)
KUROSAKI ET AL.</td></tr>
<tr><td>Examiner
SON P. HUYNH</td><td>Art Unit
2424</td></tr>
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>03</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 January 2009 and 29 October 2009</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-24</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-24</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All   b)☐ Some * c)☐ None of:
       1.☐ Certified copies of the priority documents have been received.
       2.☐ Certified copies of the priority documents have been received in Application No. _____.
       3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

10/29/2009 has been entered.

Response to Arguments

2.   Applicant's arguments with respect to claims 1-24 have been considered but are

moot in view of the new ground(s) of rejection.

Applicant argues Ellis describes a television program guide system in which

ratings information regarding a user's viewing rate relative to ranked programs which

are arranged on-dimensionally. Ellis clearly does not disclose or suggest a EPG in

which program guide data and statistical data are superimposed as a two-dimensional

group guide format, displaying the statistical data in superimposed fashion relative to

individual programs within the grid format of the EPG (pages 11-12). This argument is

respectfully traversed.

As indicated in the Final Office Action, page 7, Ellis is relied on for the teaching of superimposing. The feature of "two-dimensional grid guide format" is already taught by Goldman. Goldman further discloses displaying the statistical data relative to individual programs within the grid guide format for the EPG (e.g., viewership or percentage of viewing popularity are displayed in relative to individual programs and/or channels within the grid guide format of the EPG - see include, but not limited to, figures 2-6, paragraphs 0052-0054).

In addition, Ellis also discloses the feature of "two-dimensional grid guide format" (for example, time in one dimension and channel on another dimension –figure 20b, paragraph 0112; or US 2005/0204387 (referred to as K387): figures 18, 24, 98, 102 (E387 is continuation of 09,357,941 and 09357941 is incorporated by reference in its entirely in E744-see E744: paragraph 0068). Ellis further discloses program guide data and other data (e.g., recommendation) are displayed in superimpose fashion.

Therefore, the combination of Goldman and Ellis disclose program guide data and statistical data are superimposed as a two dimensional guide format, and displaying the statistical data in superimposed fashion relative to individual programs within the grid guide format of the EPG.

For the reasons given above, rejections of claims 1-24 are analyzed as discussed below.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Goldman (US 2002/0112239 A1) in view of Ellis et al. (US 2003/0020744 A1 – referred

as Ellis).

Note: US 2005/0149964 A1 (referred as Thomas), US 2005/0204388 A1 (referred as

Knudson), US 2003/0149988 A1 (referred as E988), US 2005/0204387 A1 (referred as

K387) are incorporated by reference in Ellis in their entireties (see Ellis - paragraphs

0068, 0092, 0098, 0102, 0104, 0107, 0108). All references incorporated by reference in

their entirety in Ellis are treated as part of Ellis' specification.

Regarding claim 1, Goldman discloses a data processing apparatus (figure 2) that

performs data processing to generate an EPG (Electronic program guide) to be

displayed on a display (e.g., EPG generator performs data processing to generate an

EPG to be displayed on television screen - figures 2, 4-6), comprising:

        program guide data acquiring means for acquiring program guide data that gives

guidance on programs (e.g., device at clearinghouse system or at local facility or at

home entertainment system for acquires program guide data to generate an EPG to be

displayed on television screen - see include, but are not limited to, figures 2-6,

paragraphs 0022-0024, 0033-0034, 0042, 0051);

statistical data acquiring means for acquiring statistical data representing

degrees of interest in the programs (e.g., device/component for acquiring/gathering

viewing behavior statistics, or viewer activity associated with television programs – see

include, but are not limited to, figures 2-6, paragraphs 0021-0022, 0025-0028);

EPG generating means for generating an EPG in which the program guide data

and the statistical data are displayed as a two-dimensional grid guide format (EPG

generator for generating an EPG in which program guide data such as channel number,

title, etc. and statistical data such as viewership, percentage of viewing popularity, are

displayed as two-dimensional grid guide format - see include, but are not limited to,

figures 2-6, paragraphs 0052-0054), displaying the statistical data relative to individual

programs within the grid guide format of the EPG (see include, but not limited to, figures

2-6, paragraphs 0052-0054).

Goldman further discloses different ways to display statistical data/viewership

information and program guide data (paragraph 0054). However, Ellis does not explicitly

disclose the teaching of displaying data in superimposing fashion.

Ellis discloses program guide data and other data are superimposed/overlaid

(see include, but are not limited to, figures 20a-20b, paragraph 0112; K387: figures 18,

24, 98, 102). Thus, Ellis discloses displaying data in superimposing fashion relative to

individual programs (see also discussion in "response to arguments" above. Therefore,

it would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify Goldman with the teaching of superimposing fashion as taught by

Ellis in order to yield predictable results such as displaying simultaneously different

contents on the screen in larger windows thereby allowing the user to view different

content on a display easily.

Regarding claim 2, Goldman in view of Ellis discloses the data processing apparatus as

discussed in the rejection of claim 1. Goldman further discloses the statistical data

includes at least one of the numbers of persons who viewed a program during a

broadcast time thereof, an audience rating (real time rating) of the program during the

broadcast time thereof... (see include, but are not limited to, figure 4, paragraphs 0052-

0054).

Regarding claim 3, Goldman in view Ellis discloses the data processing apparatus as

discussed in the rejection of claim 2. Goldman further discloses the statistical data is

obtained on the basis of information transmitted from user terminals of users (statistical

data including real time rating data, viewing information, etc. is obtained from user

terminals of users - see include, but are not limited to, figure 2, paragraphs 0009-0010,

0022, 0043);

the audience rating (real time rating, viewer preferences, or viewer behavior, or

viewer activity, etc.) of program during the broadcast time thereof is obtained using the

number of users of the user terminals which transmitted the information a

predetermined number of time or more within a predetermined period (e.g., this

moment, "real time", or time frame such as minutes, etc.), as a population parameter

(see include, but are not limited to, figure 2, paragraphs 0027, 0052).

Regarding claim 4, Goldman in view Ellis discloses the data processing apparatus as

discussed in the rejection of claim 1. Goldman further discloses EPG transmission

means for transmitting a latest EPG generated by the EPG generating means to a user

of a user terminal (e.g., component for transmitting the updated/modified EPG

generated by EPG generator to viewer of a user terminal - see include, but are not

limited to, figures 2-6, paragraphs 0037-0039, 0042-0047, 0049, 0052).

Regarding claim 5, Goldman in view Ellis discloses the data processing apparatus as

discussed in the rejection of claim 1. Goldman further discloses history data acquiring

means for acquiring, as to each of the users, history data which is a history of actions

related to program viewing taken by the user (means for obtaining, or gathering viewing

behavior, or viewing activity relating to associated program – see include, but are not

limited to, figures 2-6, paragraphs 0022, 0027, 0035-0040);

Goldman in view of Ellis further discloses the EPG generating means generates

the EPG in which the program guide data, the statistical data, and the history data are

superimposed (see include, but are not limited to, Goldman: figures 2-6, paragraphs

0022, 0027, 0035-0040, 0052-0054; Ellis: figures 20a-20b, paragraphs 0107-0109,

0112).

Regarding claim 6, the limitations that correspond to the limitations of claim 5 are

analyzed as discussed in the rejection of claim 5, wherein the "operation data"

corresponds to "history data" which is interpreted as activities information/usage data

(see also, Goldman: paragraphs 0022, 0035-0040; Ellis: paragraphs 0107-0112).

Regarding claim 7, Goldman in view Ellis further discloses the data processing

apparatus as discussed in the rejection of claim 1. Goldman in view of Ellis further

discloses the EPG generating means generates the EPG in which the program guide

data is displayed in a different manner for different broadcast status of a program (see

include, but are not limited to, Goldman: paragraphs 0011, 0035, 0049, 0052-0054; or

Ellis: figure 7, paragraph 0109 - the program guide client indicate that a program is new

to a household by, for example, displaying a suitable icon or changing the display

characteristics of listing (e.g., changing its color).

Regarding claim 8, Goldman in view Ellis discloses the data processing apparatus as

discussed in the rejection of claim 7. Goldman further discloses program guide data in

different manner (see include, but are not limited to, paragraphs 0011, 0052-0054).

However, Goldman does not explicitly disclose displaying different manners for a

program which ended, a program which is being broadcast and a program which will be

broadcast.

Ellis further disclose the EPG generating means generates the EPG in which the

program guide data is displayed in different manner for a program which ended, a

program which is being broadcast and a program which will be broadcast (e.g., display

in different manner such as different color, with a icon, etc., for program was recorded,

new program, and program scheduled for recording - see include, but are not limited to,

paragraph 0109; E988: paragraphs 0125-0126, figures 11a-11b, 12a-12b, 18a-18f).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Goldman with the teaching as further taught by Ellis in

order to allow the user to follow program status on the program guide screen easily.

Regarding claim 9, Goldman in view Ellis discloses the data processing apparatus as

discussed in the rejection of claim 1. Goldman further discloses the EPG couple be

updated via Internet and the user terminal for displaying the EPG could be computer

(paragraphs 0022, 0024, 0033, 0040, 0056, 0060, figure 6)). Thus, the EPG generated

by EPG generating means is displayable by a web browser.

Alternatively, Ellis also discloses Ellis further discloses the EPG generated by the

EPG generating means is displayable by a web browser (e.g., on line program guide

displayable by a web browser – see include, but are not limited to, paragraph 0041;

E988: paragraphs 0072, 0160).

Regarding claim 10, Ellis discloses the data processing apparatus as discussed in the

rejection of claim 1. The additional limitations that correspond to the additional limitation

of claim 9 are analyzed as discussed in the rejection of claim 9, wherein "a dedicated

browser" corresponds to "a web browser".

Regarding claim 11, Goldman in view of Ellis discloses the data processing apparatus

as discussed in the rejection of claim 1. Goldman further discloses aggregating means

for aggregating information transmitted from user terminals of users and obtaining the

statistical data (e.g., component such as upstream receiver/interface or processing at

clearinghouse system or at local facility for collecting viewing information, statistical

information, etc. from the user terminals - see include, but are not limited to, figures 2-6,

paragraphs 0022, 0028, 0030, 0039, 0042);

wherein the statistical data acquiring means acquires the statistical data obtained

by the aggregating means (e.g., data processing device/memory acquires the viewing

data, activities data, etc. received by the upstream receiver/interface or processing

circuitry at local facility or clearinghouse system -see include, but are not limited to,

figures 2-6, paragraphs 0037, 0039, 0042-0044).

Regarding claim 12, Goldman in view of Ellis discloses the data processing apparatus

as discussed in the rejection of claim 11. Goldman further discloses information of

viewer histories/activities are transmitted from the user terminal is information

representing that a program is viewed during a broadcast time thereof, or information

representing recorded program is viewed, etc. (see include, but are not limited to,

paragraphs 0022, 0031, 0035, 0036).

Alternatively, Ellis also discloses the information transmitted from user terminals

(e.g., user television equipments) is first information representing that a program is

viewed during a broadcast time thereof (e.g., information of user viewing/watching a

program in real time/during broadcast time), second information representing that a

program recorded during a broadcast time thereof is viewed by playback (e.g.,

information collected in response to user action of recording a program and playback a

recorded program), or third information representing that a program is scheduled for

recording (see include, but are not limited to, paragraphs 0010, 0045, 0107-0110;

Thomas: paragraphs 0050, 0055-0057, 0067, 0069; E988: paragraphs 0151-0153;

E988: figures 12b, 18a-18f).

Regarding claim 13, Goldman in view of Ellis discloses the data processing apparatus

as discussed in the rejection of claim 12. Goldman in view of Ellis further discloses the

first information includes information which specifies the program viewed by a user and

a viewing date/time of the program (e.g. date and time of action, including program

viewed, was taken in the program guide may be monitored and appropriate information

may be stored in data structure – see include, but are not limited to, Goldman:

paragraphs 0036-0037, 0022; Ellis: paragraphs 0055-0057);

the second information includes information which specifies a recorded program

viewed by the user and a viewing date/time of the recorded program which uses a

broadcast date/time of the recorded program viewed by the user as a reference (see

include, but are not limited to, Goldman: paragraphs 0022, 0036-0037; E988: 0151-

0153; Thomas, paragraphs 0055-0057);

the third information includes information which specifies the program which is scheduled for recording or whose recording is canceled, and information representing the recording schedule or cancellation thereof (e.g., information which specifies the program which is schedule for recording and information representing the recording schedule such as title, time, etc. - see include, but are not limited to, Goldman: paragraphs 0022, 0036-0037, 0039; E988: figures 11a-11b, 12a-12b, 18a-18f; Thomas: paragraphs 0055-0057).

Regarding claim 14, Goldman in view of Ellis discloses the data processing apparatus as discussed in the rejection of claim 13. Goldman in view of Ellis further disclose the first and second information further include a good impression level representing how the users feel about the program (e.g., high number of viewers selected/viewed program, or strong like, week like, high demand, etc. - see include, but are not limited to, Goldman: paragraphs 0022, 0052-0054; Ellis: figures 13a-13d; Thomas, paragraph 0070).

Regarding claim 15, Goldman in view of Ellis discloses the data processing apparatus as discussed in the rejection of claim 13. Goldman in view of Ellis further discloses actual viewing date/time at which the user viewed the recorded program (see include, but are not limited to, Goldman: paragraphs 0022, 0036-0037, 0039, 0049, 0052-0054; E988: paragraphs 0151-0157; Thomas, paragraph 0055-0057).

Regarding claim 16, Goldman in view of Ellis discloses the data processing apparatus

as discussed in the rejection of claim 11. Goldman in view of Ellis further discloses the

information transmitted from the user terminal includes date/time information about

broadcast dates/times of the programs (see include, but are not limited to, Goldman:

paragraphs 0022, 0036-0039, 0052-0054; Ellis: paragraph 0100-0104, 0109; E988:

figure 18f; Knudson: figures 10, 13-16);

the aggregation means aggregates the information transmitted from the user

terminals for predetermined time intervals on the basis of the date/time information

included in the information (e.g., upstream receiver interface/ processing circuitry

receives user information/viewer activities in predetermined time frame - see include,

but are not limited to, Goldman: paragraphs 0027, 0031, 0034, 0036-0039; Ellis:

paragraphs 0100-0104, 0108-0109, 0119, 0125; E988: figure 18f; Knudson: figures 10,

13-16).

Regarding claim 17, Goldman in view of Ellis discloses the data processing apparatus

as discussed in the rejection of claim 11. Goldman in view of Ellis further discloses the

aggregation means sorts and stores the information transmitted from the user terminal

by the users (e.g., the collected information is filtered/analyzed and stored in storage

device - see include, but are not limited to, Goldman: paragraphs 0043, 0044, figures 2,

6; Ellis: paragraphs 0010, 0045, 0107, 0108, 0119, 0125; Thomas, paragraphs 0069-

0075).

Regarding claim 18, Goldman in view of Ellis discloses the data processing apparatus

as discussed in the rejection of claim 11. Goldman in view of Ellis further discloses the

aggregation means determines whether or not the information transmitted from the user

terminals is valid, and takes only valid information for aggregation (e.g., analyzing,

filtering less important data and taking only high important data or desired data - see

include, but are not limited to, Goldman: paragraphs 0037, 0043, 0044; Ellis:

paragraphs 0107-0112; Thomas: paragraphs 0069-0075).

Regarding claim 19, Goldman in view of Ellis discloses the data processing apparatus

as discussed in the rejection of claim 11. Goldman in view of Ellis further discloses the

aggregation means aggregates the information transmitted from the user terminals for

each of user attributes (e.g., user identifier, user profile, user demographic values, or

subscriber ID, etc. see include, but are not limited to, Goldman: paragraphs 0022, 0036-

0037; Ellis: paragraphs 0107-0112, 0119, 0120; Thomas, paragraphs 0072-0073).

Regarding claim 20, Goldman in view of Ellis discloses data processing apparatus as

discussed in the rejection of claim 11. Goldman in view of Ellis further discloses the

information transmitted from the user terminals includes a good impression level

representing how the users feel about a program (see discussion in the rejection of

claim 14);

the aggregation means aggregates the good impression level for each of the

programs (upstream receiver or processing circuitry aggregates the viewing behavior,

viewing activity, or user preferences including strong like, weak like, etc. for each of the

programs - see include, but are not limited to, figures 2-6, paragraphs 0022, 0036-0037,

0052-0054; Ellis: figures 2a-2d, 13a-13d, paragraphs 0089-0090, 0107-0112; Thomas:

paragraphs 0069-0073).

Regarding claim 21, Goldman in view of Ellis discloses the data processing apparatus

as discussed in the rejection of claim 1. Goldman in view of Ellis further discloses

generating EPG in which the program guide data for one day is displayed on one page

(e.g., from 800 to 9:30 of a day -see Goldman: figure 4; or the program guide server or

EPG generating device at user television generates an EPG in which when the user

selects day button or page up/page down, or day forward, day backward for the listing

of a day (see include, but are not limited to, K387: paragraphs 0099-0101; E988:

paragraph 0072, and US 2003/0066085 (continuation of 08/938,028 which is

incorporated by reference in its entirety in E988) figures 16-22, 26, paragraph 0103).

Regarding claim 22, the limitations of the method that correspond to the limitations of

the apparatus of claim 1 are analyzed as discussed with respect to the rejection of claim

1.

Regarding claim 23, the limitations of the computer readable storage medium that

correspond to the limitations of the apparatus of claim 1 are analyzed as discussed in

the rejection of claim 1. Goldman further discloses the computer readable storage

medium for storing instructions being executed by a set top box or other computer to perform all functions (paragraphs 0023-0024). It would have been obvious one of ordinary skill in the art to embody the procedures of the method disclosed by Goldman in view of Ellis as discussed in the rejection of claim 1 in a "computer readable storage medium" in order that the functions are performed automatically by a processor.

Regarding claim 24, the limitations that correspond to the limitations of claim 1 are analyzed as discussed in the rejection of claim 1. Goldman further discloses a server (e.g., signal source, network or clearinghouse system) for transmitting information (figures 1-6); and a user terminal (e.g., home entertainment system, television set, set top box, etc.) for receiving information from the server (see include, but are not limited to, figures 1-6, paragraphs 0022, 0029-0034, 0042).

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Berezowski et al. (US 2002/0056087 A1) discloses system and method for improved audience measuring.

Ohno (US 2002/0066099 A1) discloses superimposing data over two dimensional grid guide format (figures 5-6).

6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to SON P. HUYNH whose telephone number is (571)272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son P Huynh/   November 23, 2009
Primary Examiner, Art Unit 2424